

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

## JAMES RUSSELL KNOX,

Petitioner,

V.

UNITED STATES OF AMERICA,

## Respondent.

CASE NO. C16-5502BHS

ORDER DENYING  
RESPONDENT'S MOTION TO  
STAY

This matter comes before the Court on Respondent United States of America's motion to stay (Dkt. 2). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

## I. PROCEDURAL AND FACTUAL HISTORY

On February 17, 2009, Petitioner James Russell Knox (“Knox”) pled guilty to one count of Bank Robbery, in violation of Title 18, United States Code, Section 2113(a). At sentencing, the Court concluded that Knox was a career offender under the sentencing guidelines. As a career offender, Knox’s base offense level increased from 20 to 32 and the guideline range increased from 51–63 months of incarceration to 151–188 months of

1 incarceration. On May 18, 2009, the Court sentenced Knox to 168 months of  
2 incarceration.

3 On June 26, 2015, the Supreme Court decided *Johnson v. United States*, \_\_\_\_  
4 U.S.\_\_\_\_, 135 S. Ct. 2551 (2015). In *Johnson*, the Court held that the residual clause of  
5 the Armed Career Criminal Act (ACCA) was an unconstitutionally vague sentencing  
6 statute in violation of the Due Process Clause. *Id.* at 2557. On April 18, 2016, the  
7 Supreme Court decided *Welch v. United States*, \_\_\_\_ U.S. \_\_\_, 136 S. Ct. 1257 (2016). In  
8 *Welch*, the Court held that “that *Johnson* is retroactive in cases on collateral review . . .”  
9 *Id.* at 1268.

10 On June 18, 2016, Knox filed a petition under 28 U.S.C. § 2255 challenging his  
11 status as a career offender and the resulting sentence. Dkt. 1. Knox argues that his crime  
12 of conviction for unarmed bank robbery is no longer a crime of violence that qualifies  
13 him as a career offender. *Id.*

14 On June 27, 2016, the Supreme Court granted a petition for writ of certiorari in  
15 *Beckles v. United States*, No. 15-8544, 2016 WL 1029080 (June 27, 2016). The  
16 Government contends that, in *Beckles*, the Supreme Court will decide whether *Johnson*  
17 applies to similar language in the guidelines and whether *Johnson* applies to guidelines  
18 cases on collateral review. Dkt. 2 at 2.

19 On July 1, 2016, the Government filed a motion to stay consideration of Knox’s  
20 petition until the Supreme Court issues a decision in *Beckles*. *Id.* On July 11, 2016,  
21 Knox responded and opposes a stay. Dkt. 4. The Government did not file a reply.  
22

## 1 II. DISCUSSION

2 The Government argues that the Court should stay determination of Knox's  
3 petition "in the interest of judicial economy . . ." Dkt. 2 at 2.

4 A trial court may, with propriety, find it is efficient for its own docket and  
5 the fairest course for the parties to enter a stay of an action before it,  
6 pending resolution of independent proceedings which bear upon the case.  
7 This rule applies whether the separate proceedings are judicial,  
8 administrative, or arbitral in character, and does not require that the issues  
in such proceedings are necessarily controlling of the action before the  
court.

9 *Leyva v. Certified Grocers of California Ltd.*, 593 F.2d 857, 863–64 (9th Cir. 1979)  
10 (citing *Kerotest Mfg. Co. v. C–O–Two Fire Equip. Co.*, 342 U.S. 180 (1952)). "At the  
11 same time, habeas proceedings implicate special considerations that place unique limits  
12 on a district court's authority to stay a case in the interests of judicial economy." *Yong v.*  
13 *I.N.S.*, 208 F.3d 1116, 1119–20 (9th Cir. 2000). The Ninth Circuit has "never authorized,  
14 in the interests of judicial economy, an indefinite, potentially lengthy stay in a habeas  
15 case." *Id.* "The writ of habeas corpus, challenging illegality of detention, is reduced to a  
16 sham if . . . trial courts do not act within a reasonable time." *Jones v. Shell*, 572 F.2d  
17 1278, 1280 (8th Cir. 1978) (footnote omitted). "A long stay also threatens to create the  
18 perception that courts are more concerned with efficient trial management than with the  
vindication of constitutional rights." *Yong*, 208 F.3d at 1120.

19 In this habeas case, the Government has failed to show that a stay for purposes of  
20 judicial economy is appropriate. Not only is this a habeas case challenging an  
21 unconstitutional confinement, but it is also unclear when or if the Supreme Court will

1 decide *Beckles*. Such an indefinite and lengthy delay is not justified for concerns of  
2 judicial efficiency. Therefore, the Court denies the Government's request.

3 **III. ORDER**

4 Therefore, it is hereby **ORDERED** that the Government's motion to stay is  
5 **DENIED**. The parties shall submit a stipulated briefing schedule on the merits of the  
6 petition.

7 Dated this 19th day of July, 2016.

8  
9  
10   
11 

---

  
12 BENJAMIN H. SETTLE  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22